

|                               |                        |                     |  |
|-------------------------------|------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                               | 10/563,164             | SONG, DONG-SUK      |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                               | James M. Robinson      | 3772                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 22 May 2009.
2. ☒ The allowed claim(s) is/are 1,2,3,5-8,10-16,21 and 22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>9/16/2009</u>.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|---|

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772



### **DETAILED ACTION**

**The finality of the Office action dated 9/02/2009 has been withdrawn as a result of the After Final interviews with applicant on 9/8/2009 and 9/16/2009.**

#### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

#### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Henry Lee on 9/9/2009.

The application has been amended as follows:

#### **Claims:**

#### **Claim 1:**

Replace claim 1 with:

A foot protection device, comprising:

- an opening through which a foot is inserted;
- an anterior hole and a posterior hole provided on a sole portion;
- five toe insert parts with five toe holes provided on a toe portion, wherein each of the five toe holes is provided at an end of each of the five toe insert parts to expose toes;
- ankle securing means provided at an end portion of an ankle portion;
- an ankle protective cover attached to a top surface of the ankle portion, the ankle protective cover comprising a plurality of layers; and
- a cushioning layer provided between the plurality of layers of the ankle protective cover to absorb shock

wherein each of the five toe insert parts extends toward each of the five toe holes to cover at least a part of each of five toes.

**Claim 8:**

On line 1, after "claim" the number [4], has been deleted.

On line 1, after "claim", the number -- 1 -- has been inserted.

**Claim 10:**

On line 1, after "claim" the number [4], has been deleted.

On line 1, after "claim", the number -- 1 -- has been inserted.

**Claim 21:**

On line 9, after "toes;" the word [and], has been deleted.

On line 10, after "ankle portion", delete the comma [,] and insert a semicolon

-- ; --.

After line 10, beginning on new line 11, begin a new clause; the words:

-- an ankle protective cover attached to a top surface of the ankle portion, the ankle protective cover comprising a plurality of layers; and

a cushioning layer provided between the plurality of layers of the ankle protective cover to absorb shock --

have been inserted.

3. Claims 4, 9, 17 and 23 have been cancelled.

***Reasons for Allowance***

4. Claims 1, 2, 3, 5-8, 10-16, 21 and 22 are allowed.

5. The following is an examiner's statement of reasons for allowance: The subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was an exterior cover including an upper piece and a lower piece each having cut parts between the toe insert parts and an ankle protective cover comprising a cushioning layer provided between a plurality of layers in combination with the other elements in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

7. Andujar (US 5,211,672): which discloses a foot protection device foot protection device comprising an exterior cover; an opening through which a foot is inserted; an anterior hole and a posterior hole provided on a sole portion; and an ankle securing means in the form of a slit to open and close an ankle of a user provided at an end portion of an ankle portion; and Malpee (US 5,885,898): which discloses a foot protective covering comprising an upper piece covering at least an instep portion of a foot and having first cut parts between toes; a lower piece covering at least a sole portion of the foot and having second cut parts between toes including five toe insert parts with five toe holes provided on a toe portion. Note: these references were previously cited on the Notice of References Cited dated 5/13/2009.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Robinson whose telephone number is (571) 270-3867. The examiner can normally be reached on Mon-Fri 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James M. Robinson/

/Patricia Bianco/

Supervisory Patent Examiner, Art Unit 3772